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VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, DC 20554

**Re: Notice of *Ex Parte* in WC Docket No. 02-60**

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide notice of an oral *ex parte* presentation in connection with the above-captioned proceedings. On Monday, October 16, 2017, Hank Fanberg, Director of Technology Advocacy, CHRISTUS Health<sup>1</sup>, and undersigned counsel, met with Jay Schwarz, Legal Advisor to Chairman Pai. We also met with the following individuals in the Wireline Competition Bureau: Radhika Karmarkar, Deputy Division Chief, Telecommunications Access Policy Division (TAPD), Jonathan Lechter, Special Counsel, TAPD, Dana Bradford, Carol Pomponio, and Preston Wise.

The purpose of the meetings was to discuss relevant developments since CHRISTUS' 2015 letter requesting the Commission consider establishing a funding mechanism through the Healthcare Connect Fund (HCF) that would support the broadband costs associated with rural remote patient monitoring (RPM).<sup>2</sup> We noted that the Schools, Health & Libraries Broadband (SHLB) Coalition petition for a rulemaking to modernize the Rural Health Care program incorporated the 2015 CHRISTUS letter into its request, and that that petition remains pending.<sup>3</sup>

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<sup>1</sup> CHRISTUS Health is an international Catholic, faith-based, not-for-profit health system comprised of almost more than 600 services and facilities, including more than 60 hospitals and long-term care facilities, 350 clinics and outpatient centers, and dozens of other health ministries and ventures. <https://www.christushealth.org/about>.

<sup>2</sup> See Letter from George S. Conklin, Senior Vice President and CIO, CHRISTUS Health, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 30, 2015), filed in WC Docket No. 02-60, available at <https://ecfsapi.fcc.gov/file/60001041893.pdf>.

<sup>3</sup> See <https://ecfsapi.fcc.gov/file/60001352027.pdf> at 22-23 (*SHLB Petition*); see also Wireline Competition Bureau Invites Comment on Petition for Rulemaking Filed by Schools, Health, & Libraries Broadband Coalition, *et al.*, Seeking Further Modernization of the Rural Health Care Program, WC Docket No. 02-60, Public Notice, DA 15-1424 (2015). Some *SHLB Petition* commenters specifically supported the CHRISTUS letter. See, e.g., Comments of NTCA-The Rural Broadband Association at 21; Comments of TracFone Wireless, Inc. at 7-9.

CHRISTUS proposed allowing the HCF to provide support to eligible health care providers for some portion of the mobile data costs associated with providing RPM to rural patients. The supported connectivity would be dedicated to RPM devices controlled by health care providers and used solely for providing health care services. Providing universal service support for the connectivity from health care providers to their rural patients is fully consistent with the language of the relevant statute and existing HCF rules.<sup>4</sup> We acknowledge administrative challenges that need to be addressed such as whether to require competitive bidding in cases where the pricing for mobile broadband services are commoditized and publicly available. To help address these challenges, CHRISTUS would be open to participating in a pilot project to explore the costs and benefits of supporting broadband connectivity for rural RPM.

### **Challenges Affecting Rural Areas Persist**

We noted that all of the rural trends identified in the *SHLB Petition*: increasing poverty, aging populations, and doctor shortages, continue to worsen. The economic struggles of rural hospitals also continue as reflected in the rate of closures,<sup>5</sup> and the rate at which hospitals are being acquired by larger health systems (including CHRISTUS) to try to avoid closure. These hospital closures reflect in part the substantial costs associated with the accelerating shift to broadband-dependent health care models. Network security costs associated with pervasive ransomware attacks against hospitals and health systems are one example of these costs.

### **The RHC Program Should Modernize to Support Rapid Changes in the Healthcare Sector**

We urged the Commission to adopt flexible reforms to the Rural Health Care program that will keep pace with rapid change in the healthcare sector. We noted growing, broad-based support for increasing the size of the Rural Health Care program funding cap. For example, as recently

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<sup>4</sup> Relevant language:

- Section 254(h)(1)(A): “A telecommunications carrier shall . . . provide telecommunications services which are necessary for the provision of health care services in a State . . . to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the [urban/rural] difference . . . treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.”
- Section 254(h)(2)(A): “The Commission shall establish competitively neutral rules . . . to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications . . . for all public and nonprofit . . . health care providers . . .”
- Section 54.634(a) of the HCF rules provides support for “any advanced telecommunications or information service that enables health care providers to post their own data, interact with stored data, generate new data, or communicate, by providing connectivity over private dedicated networks or the public Internet for the provision of health information technology.”

<sup>5</sup> There have been about 43 closures since November 2014 and 82 since January 2010. See North Carolina Rural Health Research Program, University of North Carolina, 82 Rural Hospital Closures: January 2010 – Present, <https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/> (visited Oct. 18, 2017).

reported, The Healthcare Information and Management Society (HIMSS) has called on Congress to support increasing the size of the RHC program.<sup>6</sup>

We also referenced comments supporting the value of RPM and the importance of FCC actions to support RPM adoption filed recently in response to the Connect2Health Task Force's public notice requesting comments in GN Docket No. 16-46, *Actions to Accelerate Adoption and Accessibility of Broadband-Enabled Health Care Solutions and Advanced Technologies*.<sup>7</sup>

- ***RPM saves money.***
  - Flagstaff Medical Center (Arizona) provided patients chronic heart failure mobile broadband-enabled remote patient monitoring (RPM) kits. Researchers found, compared to six months prior to enrollment, patients with RPM in the following six months:
    - Had 44% fewer hospitalizations;
    - Spent 64% fewer days hospitalized;
    - Averaged \$92K less in hospital charges.<sup>8</sup>

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<sup>6</sup> See Eric Wicklund, HIMSS Makes Its Pitch for Telehealth Legislation, Rural Broadband, MHEALTH INTELLIGENCE, Oct. 5, 2017:

"Currently, many patients and providers in rural and underserved areas lack access to the affordable, quality broadband necessary to realize the full potential of health IT, including telehealth and remote patient monitoring, to support 21st-century healthcare," the organization said. "There continues to be a significant disparity in access across America, with more than 39 percent of Americans living in rural areas lacking access to advanced telecommunications services, compared to just 4 percent of Americans living in urban areas." "Research shows this lack of access is negatively affecting both patients' health status and clinicians' ability to provide the care needed to make their communities healthier," HIMSS added. "Based on December 2015 data, the least connected counties (generally) have the highest rates of chronic disease. Obesity prevalence is 25 percent higher and diabetes prevalence is 41 percent higher in these counties (an increase of 6 percent over the prior year) where 60 percent of households lack broadband access."

To improve those percentages, HIMSS is asking Congress to "modernize" the Federal Communications Commission's Rural Health Care Program, which was established in 1997 with a \$400 million cap and hasn't been upgraded since. This year, demand for funding exceeded the cap for the first time.

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The issue has hampered healthcare services in at least two states. Earlier this year, legislators in Montana shot down proposed telemedicine standards, saying the state couldn't set guidelines on broadband-based services if its residents couldn't access them.

And in Alaska, legislators drafted a petition asking the FCC to boost its Rural Health Care Universal Service Support Fund so that the state could invest in broadband expansion.

<sup>7</sup> FCC Seeks Comment on Data on Actions to Accelerate Adoption and Accessibility of Broadband-Enabled Health Care Solutions and Advance Technologies, GN Docket No. 16-46, Public Notice, FCC 17-46 (rel. Apr. 24, 2017), [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-46A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-46A1_Rcd.pdf).

<sup>8</sup> See Comments of Qualcomm Incorporated in GN Docket No. 16-46, at 8 (May 24, 2017), <https://ecfsapi.fcc.gov/file/105241471817643/Qualcomm%20Comments%20on%202017%20mHealth%20PN.pdf>.

- ***RPM will be transformative but needs FCC regulatory support***
  - Chronic diseases and conditions are leading cause of death and disability in US.<sup>9</sup>
  - “FCC should look to align programs that can bolster efforts to better target those with chronic conditions, and ensure that these populations have access affordable . . . broadband-enabled health technologies.”<sup>10</sup>
  - Study: “Mobile health devices: will patients actually use them?”
    - “Use of mobile technologies may have the potential to transform care delivery across populations and within individuals over time. However, devices may need to be tailored to meet the specific patient needs.”<sup>11</sup>

Finally, we noted press reports of a recent study explaining why home WiFi systems are not a reliable platform for RPM.<sup>12</sup> CHRISTUS looks forward to continuing to work with the Commission as it considers further modernization and reforms of the RHC program.

Sincerely,



Jeffrey A. Mitchell  
Counsel for CHRISTUS Health

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<sup>9</sup> See Comments of American Medical Informatics Association in GN Docket 16-46, at 5 (May 24, 2017) (citing CDC data) [https://ecfsapi.fcc.gov/file/10613828216254/AMIA%20Response%20to%20FCC%20Notice%20on%20Accelerating%20Broadband%20Health%20Tech%20Availability\\_final.pdf](https://ecfsapi.fcc.gov/file/10613828216254/AMIA%20Response%20to%20FCC%20Notice%20on%20Accelerating%20Broadband%20Health%20Tech%20Availability_final.pdf).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 7-8.

<sup>12</sup> “Remote care and telehealth programs that depended on the patient’s home WiFi network were often unsuccessful, especially when clinicians were visiting patients in rural or underserved areas. Home WiFi connections were often unreliable and were not strong enough to transmit large files or stream video for conferencing.” See Elizabeth O’Down, Broadband Supports Healthcare IoT Remote Connectivity, Volume, HIT INFRASTRUCTURE, Sep. 5, 2017, [www.hitinfrastructure.com/news/broadband-supports-healthcare-iot-remote-connectivity-volume](http://www.hitinfrastructure.com/news/broadband-supports-healthcare-iot-remote-connectivity-volume) (citing experience of RPM program implemented by Children’s Mercy Hospital in Kansas City Missouri).